

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Fin Brand Positioning, LLC, et al.

v.

Civil No. 09-cv-00405-JL

Take 2 Dough Productions, Inc., et al.

ORDER ON JURY SELECTION

Jury selection in the above-captioned matter will be conducted under the "struck" method and will include attorney-conducted voir dire. See 28 U.S.C. § 1861 et seq.; Fed. R. Civ. P. 47, 48, 49; L.R. 47.2, 47.3, 48. It will be conducted as follows:

1. **Size of jury:** **Eight jurors (and no alternates)** will be seated. Barring excusal pursuant to Rule 47(c), all jurors shall participate in the verdict. The verdict shall be unanimous and no verdict shall be taken from the jury if its number is reduced to fewer than **six** members unless the parties agree otherwise subject to court approval.
2. **Standard voir dire:** Once the jury venire is seated in the courtroom, the court will briefly describe the case, have counsel introduce themselves and their clients, read the names of potential witnesses, and ask the court's "standard" voir dire questions as may be supplemented upon request of the parties.
3. **Random selection and initial excusals for cause:** During the court's voir dire, the deputy clerk will be randomly drawing 14 jurors. Upon completion of the voir dire, the deputy clerk will announce the names of all 14 jurors who will come in order and take a seat in the jury box. The

jury clerk will be checking with each juror to see who needs to speak with the judge or who answered "yes" to any of the questions. The first juror with a question will approach side bar for examination by the court, counsel, and potential challenge for cause by counsel. If the juror is found qualified (that is, not excused for cause), the juror will resume their seat in the jury box. If the juror is excused for cause, the deputy clerk will then draw another name from the box. That juror will be asked whether or not they need to speak with the judge. If so, that juror will approach side bar. If not, that juror will fill the empty seat in the jury box. This process will continue until there are 14 qualified jurors.

4. **Attorney voir dire:** Counsel have declined the to opportunity to conduct voir dire of the seated jurors.
5. **Peremptory challenges:** After all requests for excusal for cause have been addressed, counsel may then exercise their peremptory challenges against the qualified panel. Plaintiffs are entitled to a total of **three** peremptory challenges. Defendants are entitled to a total of **three** peremptory challenges.
6. After the peremptory challenges, the Deputy Clerk will empanel the necessary number of jurors, **in this case, eight**, and will excuse the remainder of the jury venire.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: April 23, 2012

cc: Philip L. Pettis, Esq.
Scott A. Daniels, Esq.
James F. Laboe, Esq.
Jeffrey C. Spear, Esq.